IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5581 OF 2006

M/s.Kleen Enviro Systems .. Petitioner.
Vs.
M/s.Nirmal Distributors .. Respondent.

Mr.U.P.Warunjikar for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 23RD AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioner.

2. The petitioner has impugned the following order dated 24.3.2004 in the present writ petition:

> . "Defts. fails to file his W.S. within 90 days as per O.8 R.1 CPC. So also as per ruling reported in 2004(1) of ALL MR 418. The question did not arise to set aside the no W.S. After I allowed deft. to file W.S. beyond the period of 90 days from the date of service of say.
>
> . Issue fresh notice is rejected".

3. I do not deem it necessary to issue notice to the respondent and examine the merits of the petition since, in my opinion, the interest of justice would be served if the petitioner is allowed to file fresh application seeking permission to file the written statement. If such an application is filed same may

be considered on merits in accordance with law and keeping in view the subsequent judgments of this Court and of the Supreme Court, interpreting the provisions contained in Order VIII Rule 1 of the Code of Civil Procedure. While granting the liberty I shall not be understood to have expressed any opinion on the merits of the case. The writ petition is disposed of.

(D.B.Bhosale, J.)